

FILED  
HARRISBURG, PA

ORIGINAL

DEC 15 2004

IN THE UNITED STATES DIST. COURT MARY E. D'ANDREA, CLERK  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA Per Deputy Clerk

EDWARD COSS,  
PETITIONER

CIV NO.1:01-CV-00878

V.

(JUDGE CALDWELL)

JAMES P. MORGAN, et al.,  
RESPONDENT

(MAGISTRATE BLEWITT)

.....

PETITIONERS SUPPLEMENTAL RESPONSE  
TO RESPONDENTS SUPPLEMENTAL MEMORANDUM

THE PURPOSE OF THIS SUPPLEMENTAL RESPONSE IS TO OFFER A CONDENSED  
VERSION OF PETITIONERS RESPONSE. BECAUSE IT IS RESPONDENT WHO IN  
FACT CONVOLUTES A CASE WITH MATTER IN AN ATTEMPT TO CONFUSE THE  
REAL ISSUE, PETITIONER IS NOW FORCED TO FULLY DEVELOPE HIS  
RESPONSE, AND CLAIM IN ORDER THAT THIS HONORABLE COURT TO SEE THE  
TRUTH, AND NOT MAKE A DECISION BASED ON HALF TRUTH'S, AND  
DECEPTION. RESPONDENT USED THE WORDS NON-EXISTENT, SELF DESTRUCT,  
AND NOT PENDING, PETITIONER WILL NOW MAKE THIS REVIEW AS SIMPLE  
AS POSSIBLE TO UNDERSTAND, PLEASE SEE ATTACHED HERETO, AND MARKED  
AS PETITIONER EXHIBIT "A", WHICH IS THE OFFICIAL SUPERIOR COURT  
DOCKET ENTRY SHEET, AND TAKE NOTICE TO THE REFERENCED LOWER COURT  
DOCKET NUMBER, 86-CR. 645., AND THE DATE OF THE ORDER APPEALED  
FROM MAY 21, 2004, THIS IS THE DENIAL OF THE P.C.R.A., THE SAME  
P.C.R.A. RESPONDENT CLAIMED IN HIS SUPPLEMENTAL MEMORANDUM WAS  
NON-EXISTENT, NOT PENDING, SELF DESTRUCTED? HOW DID THIS HAPPEN?  
THIS HONORABLE COURT CANNOT BE CONCERNED ABOUT HOW OR WHY IT  
OCCURRED, BUT ONLY BE CONCERNED WITH THE FACT'S A REVIEW OF THE  
P.C.R.A. DID IN FACT OCCUR, AND THAT RESPONDENTS TRIED TO GET  
AROUND THAT FACT BY NOT DISCLOSING THIS TO THE COURT. A REVIEW,

AND

OF PETITIONER'S P.C.R.A. BY THE LOWER STATE COURT IS FINAL, AND THEREFORE PETITIONER MET BOTH ELIGIBILITY, AND JURISDICTION REQUIREMENTS. RESPONDENT WILL NOW SAY THAT THEY ONLY ENTERTAINED PETITIONER'S P.C.R.A. TO APPEASE, OR PERHAPS AMUSE PETITIONER? LET'S FACE IT PETITIONER'S APPEAL'S IN BOTH HIS STATE COURT CONVICTION'S HAVE BEEN A "MIRAGE", AND P.C.R.A. MEANS TO "PLACE CONSTITUTIONAL RIGHT'S ASIDE." RESPONDENT CAN NOT GO BACK, AND TURN OFF THE FAVORTISM SWITCH, SOMEONE LEFT THE SWITCH ON IN MAY 2004, THE P.C.R.A. WAS RULED ON, AND JURISDICTION WAS ASSUMED, AND ELIGIBILITY GRANTED. RESPONDENT'S WAIVED THE CHANCE TO CLAIM "AHLBORN" A DETERMINATION WAS RENDERED. RESPONDENT WANTED THEIR CAKE AND EAT IT TOO, IT DOESN'T WORK THAT WAY, AND RESPONDENT SHOULD BE HELD TO THEIR DECISION'S AND RULING'S. LET RESPONDENT CLAIM NOW THAT REVIEW WAS IN ERROR, THAT THEY COULD NOT HAVE LEGALLY MADE THE REVIEW, THEN THIS COURT SHOULD CHALLENGE RESPONDENT BY INQUIRING ABOUT THE COM. V. TED SCHMIDT CASE, THE SCRANTON POLICE OFFICER WHO DID NOT APPEAL HIS CASE, BUT YET YEAR'S LATER THE SAME DIST. ATTY. OFFICE IGNORED JURISDICTION, AND ELIGIBILITY REQUIRMENTS WHEN THEY REVERSED THE SCHMIDT CASE, AND WITHDREW THE CASE. DO YOU REMEMBER THE OLD SAYING "I'LL TAKE WHAT HE IS HAVING" THAT IS EXACTLY WHAT PETITIONER SAY'S THEN, AND NOW, AND RESPONDENT CAN NOT TAKE BACK NOW WHAT THEY GAVE IN MAY OF 2004, A REVIEW OF A P.C.R.A. THEY CLAIM NOW WAS NON-EXISTENT, AND SELF DESTRUCTED, AND THEREFORE NOT PENDING. THEY REALLY FOOLED PETITIONER, AND FAMILY DURING THE P.C.R.A. HEARING, AND THE JUDGES RULING, IT LOOKED PRETTY MUCH ALIVE, AND INTACT TO US, AND THAT MAY 21, 2004 ORDER IS REAL ENOUGH. THE BOTTOM LINE IS IF "AHLBORN" WAS TO BE UTILIZED FULLY THEN

ABSOLUTELY "NO" REVIEW COULD BE MADE. RESPONDENT IS WELL LEARNED IN THE STATE LAW CONCERNING COLLATERAL ATTACK'S OF A CONVICTION ONCE A SENTENCE EXPIRES. IF IT WAS HIS ERROR THEN HE SHOULD ACCEPT HIS "MISFORTUNE", AND PREPARE FOR THE NEXT STAGE OF THESE PROCEEDING'S, AND NOT LIE TO THIS COURT BY CLAIMING PETITIONER'S P.C.R.A., IS NOT PENDING, OR HAS SELF DESTRUCTED OR IS NON-EXISTENT! RESPONDENT AND THE STATE MADE THE REVIEW OF PETITIONER'S P.C.R.A., AND NOW SHOULD HAVE TO LIVE WITH THE WAIVER OF ANY CLAIM TO TIMELINESS. FURTHERMORE, SAID REVIEW, AND DENIAL OF PETITIONER'S P.C.R.A., IN MAY OF 2004, IS WHEN THE TIME TO FILE HABEAS CORPUS WOULD RUN FROM, SINCE PETITIONER'S P.C.R.A. WAS LEGALLY PENDING UNTIL DECISION WAS RENDERED IN MAY OF 2004. RESPONDENT'S NAME CALLING, AND KNIT PICKING CAUGHT UP WITH THEM, IF IT WAS NOT FOR RESPONDENTS SUPPLEMENTAL MEMORANDUM BEING FILED PETITIONER MAY NOT HAVE REALIZED RESPONDENTS INTENTIONAL ACT OF DECEPTION BY NOT DISCLOSING THE FACT THAT A P.C.R.A., DETERMINATION WAS MADE, AND THEREFORE PETITIONER'S TIME TO FILE HIS HABEAS RUN'S FROM THAT DECISION OF MAY 2004, AND NOT (1990) AS RESPONDENTS CLAIM

#### CONCLUSION

PETITIONER RESPECTFULLY REQUEST'S THAT THIS HONORABLE COURT REVIEW SUPERIOR COURT DOCKET, AND ORDER OF LOWER COURT DATED MAY 21, 2004, AND MAKE A PRELIMINARY DETERMINATION, THAT RESPONDENT REVIEWED, AND DECIDED PETITIONER'S P.C.R.A., AND THEREFORE IT IS FROM THE DATE OF THE DECISION BY THE LOWER COURT THAT WOULD START THE TIME IN WHICH PETITIONER HAD TO FILE HIS HABEAS CORPUS PETITION

DENY ANY AND ALL RELIEF THAT RESPONDENT ASKED FOR, AND ADVANCE THIS CAUSE EXPIDITIOUSLY, AND JUSTLY SO PETITIONER CAN ONCE AND FOR ALL RID THIS UNCONSTITUTIONALLY OBTAINED CONVICTION FROM THE SAME RECORD RESPONDENT ADMITTED SAID CONVICTION WOULD "PHYSICALLY" BE IN BUT, FORGOT TO MENTION THAT WOULD BE CALLED FOR "DUTY" IN THE EVENT PETITIONER WAS EVER SENTENCED IN THE FUTURE, OR APPLIED FOR A JOB. NO ONE LIKE'S A PERSON WHO ASSAULTED A POLICE OFFICER, AND PETITIONER HAS NEVER HARMED OR ASSAULTED A POLICE OFFICER, AND HE IS INNOCENT OF THIS CRIME, AND SHOULD NOT HAVE TO LIVE THE REST OF HIS LIFE WITH A CONVICTION ON HIS RECORD, AND THE MEMORIES OF A 17 YEAR OLD BEING SENT TO STATE PRISON AS AN INNOCENT PERSON. WHAT PART OF THAT DOES THE RESPONDENT NOT UNDERSTAND? IF THE STATE REFUSES TO REMEDY THE FACT AN INNOCENT PERSON WAS SENT TO PRISON TO SERVE THE TIME FOR SOMEONE ELSE'S CRIME THEN THEY SHOULD MOVE OVER, AND ALLOW A COURT WILLING TO REVIEW SAID MATTER THE CHANCE TO RESOLVE THIS MATTER IN A WAY THAT WOULD BE TRULY JUST, SPEEDY, AND INEXPENSIVE FOR ALL CONCERNED AND NOT JUST RESPONDENT WHO REFUSES TO ADMIT THAT PETITIONER IS INNOCENT. THE TIME HAS BEEN SERVED, THE MONEY IS SPENT NO ONE CAN GET BACK THE MONEY OR THE LOST YEAR'S OF PETITIONER'S LIFE, THE ONLY THING LEFT IS FOR THIS HONORABLE COURT TO REVIEW THE EVIDENCE, AND THE TRUE FACT'S, AND MAKE A TRULY JUST AND FAIR DECISION.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read 'Edward Cross', with a stylized, flowing script.

EDWARD COSS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON DECEMBER 13, 2004, I SERVED A COPY OF  
THE FOREGOING:

PETITIONER'S SUPPLEMENTAL RESPONSE  
TO RESPONDENTS SUPPLEMENTAL MEMORANDUM

UPON RESPONDENT,

WILLIAM P. O'MALLEY  
AAST. DIST. ATTY.  
LACKA. CO. COURTHOUSE  
SCRANTON, PA. 18503

A handwritten signature in black ink, appearing to read 'E. Coss', with a long horizontal flourish extending to the right.

EDWARD COSS

**Appeal Docket Sheet****Superior Court of Pennsylvania****Docket Number: 955 MDA 2004****Page 1 of 4****November 22, 2004**

Commonwealth of Pennsylvania

v.

Edward R. Coss, Jr., Appellant

Initiating Document: Notice of Appeal IFP

Case Status: Active

Case Processing Status: August 12, 2004

Awaiting Appellant Paperbooks

Journal Number:

Case Category: Criminal

CaseType:

Aggravated Assault

Criminal Mischief

Criminal Trespass

Disorderly Conduct

Resisting Arrest

Simple Assault

Theft

**Consolidated Docket Nos.:****Related Docket Nos.:****SCHEDULED EVENT**

Next Event Type: Receive Appellant Paperbooks

Next Event Due Date: December 7, 2004

## Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 955 MDA 2004

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November 22, 2004



## COUNSEL INFORMATION

Appellant Coss Jr., Edward R.

Pro Se: ProSe Appoint Counsel Status:

IFP Status: Yes

## Appellant Attorney Information:

Attorney: Osborne, Christopher J.

Bar No.: 80064 Law Firm: Powell Law

Address: Barrister's Row  
142 Adams Avenue  
Scranton, PA 18503

Phone No.: (570)961-0777 Fax No.: (570)342-1232

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Attorney: Coss Jr., Edward R.

Bar No.: Law Firm:

Address: SCI Waymart-CB 5970  
P.O. Box 256; Route 6  
Waymart, PA 18472

Phone No.: Fax No.:

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Commonwealth of Pennsylvania

Pro Se: Appoint Counsel Status:

IFP Status: No

## Appellee Attorney Information:

Attorney: Jarbola III, Andrew John

Bar No.: 44566 Law Firm:

Address: Lackawanna Co DA's Office  
200 N Washington Ave  
Scranton, PA 18503

Phone No.: (570)963-6717 Fax No.:

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

## FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
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## TRIAL COURT/AGENCY INFORMATION

**Appeal Docket Sheet****Superior Court of Pennsylvania****Docket Number: 955 MDA 2004****Page 3 of 4****November 22, 2004**

Court Below: Lackawanna County Court of Common Pleas

County: Lackawanna

Division: Criminal

Date of Order Appealed From: May 21, 2004

Judicial District: 45

Date Documents Received: June 21, 2004

Date Notice of Appeal Filed: June 6, 2004

Order Type: PCRA Order

OTN:

Judge: Cottone, S. John  
Senior Judge

Lower Court Docket No.: 86 CR 645

**ORIGINAL RECORD CONTENTS**

Original Record Item	Filed Date	Content/Description
Part	August 12, 2004	1
No Opinion	August 12, 2004	

Date of Remand of Record:

**BRIEFS**

Appellant

Brief

Coss Jr., Edward R.

Due: December 7, 2004



## Appeal Docket Sheet

## Superior Court of Pennsylvania

Docket Number: 955 MDA 2004

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November 22, 2004



## DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
June 22, 2004	Notice of Appeal IFP		
		Appellant	Coss Jr., Edward R.
	EDWARD COSS NEEDS TO SERVE THE T/C JUDGE WITH A COPY OF HIS NOTICE OF APPEAL THEN SEND SUPERIOR COURT A COPY OF HIS AMENDED PROOF OF SERVICE		
June 22, 2004	Docketing Statement Exited (Criminal)		
			Middle District Filing Office
July 26, 2004	Order Directing Compliance with Pa.R.A.P. 3517		
			Per Curiam
	DUE ON AUGUST 5, 2004 8/26/04 - ORDER RESCINDED		
August 12, 2004	Trial Court Record Received		
			Lower Court or Agency
	NO OPINION		
August 26, 2004	Order		
			Per Curiam
	THIS COURT'S ORDER OF JULY 26, 2004 IS HEREBY RESCINDED. AS ATTORNEY OSBORNE HAS NOT BEEN GRANTED LEAVE TO WITHDRAW AS COUNSEL FOR APPELLANT, HE IS HEREBY DIRECTED TO ENTER HIS APPEARANCE AS COUNSEL FOR APPELLANT IN THIS COURT. THE PROTHY OF THIS COURT IS HEREBY DIRECTED TO SEND A DOCKETING STATEMENT TO ATTORNEY OSBORNE. THE EXISTING BRIEFING SCHEDULE IS HEREBY VACATED. UPON COUNSEL'S ENTRY OF APPEARANCE, A NEW BRIEFING SCHEDULE WILL BE SET.		
August 26, 2004	Vacate Briefing Schedule Sua Sponte		
			Per Curiam
August 26, 2004	Docketing Statement Exited (Criminal)		
			Middle District Filing Office
September 9, 2004	Docketing Statement Received		
		Appellant	Coss Jr., Edward R.
October 28, 2004	Praecipe for Appearance		
	Praecipe for Appearance Osborne, Christopher J.		
		Appellant	Coss Jr., Edward R.

EDWARD COSS

CB 5970

SCOTT SMITHFIELD

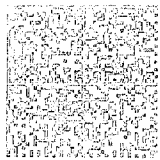
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~~HARRISBURG PA~~

Huntingdon, PA

16652

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PA Dept of  
Corrections



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OFFICE OF THE C/E.

UNITED STATES DIST.

MIDDLE DIST OF PENN.

U.S. Courthouse

228 WALNUT ST

PO Box 983

Harrisburg, PA